

Linda L. Usoz (SBN 133749)
linda.usoz@klgates.com
K&L GATES LLP
630 Hansen Way
Palo Alto, CA 94304
Telephone: (650) 798-6700
Facsimile: (650) 798-6701

Attorneys for Defendant RECKITT BENCKISER
PHARMACEUTICALS, INC.

**ORIGINAL
FILED**

JUL 12 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

JANELLE CRONK,

Plaintiff,

vs.

RECKITT BENCKISER PHARMACEUTICALS,
INC.; and DOES 1-10, inclusive,

Defendants.

Case No.

NOTICE OF REMOVAL

(Alameda County Superior Court
Case No. RG 13683734)

**TO: UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

PLEASE TAKE NOTICE THAT Defendant Reckitt Benckiser Pharmaceuticals, Inc. (hereinafter "RB Pharma"), by and through its attorneys, K&L Gates LLP, pursuant to 28 U.S.C. §§ 1331, 1332, 1441 and 1446, hereby removes the above-captioned matter from the Superior Court of California, Alameda County, to the United States District Court for the Northern District of California, and respectfully states as follows:

PROCEDURAL BACKGROUND

1. On or about June 14, 2013, plaintiff Janelle Cronk (hereinafter "Plaintiff") filed a Complaint against RB Pharma in the Superior Court of the State of California, County of Alameda, in

1 the matter entitled Janelle Cronk v. Reckitt Benckiser Pharmaceuticals, Inc., Case No. RG13683734
2 (“the State Court Action”). A copy of the Complaint is attached hereto as **Exhibit A**.

3 2. RB Pharma has not entered its appearance, filed responsive pleadings, or otherwise
4 responded to Plaintiff’s Complaint in the State Court Action.

5 3. This Notice of Removal is filed in the District Court of the United States for the
6 district in which the State Court Action is pending.

7 4. RB Pharma was served with a copy of the Summons and Complaint in this matter on
8 or about June 17, 2013. A copy of the Summons received by RB Pharma is attached hereto as
9 **Exhibit B**.

10 5. On June 24, 2013, the Superior Court entered a Notice of Case Management
11 Conference and Order, a copy of which is attached hereto as **Exhibit C**.

12 6. Pursuant to 28 U.S.C. § 1446(a), the aforesaid Summons, Complaint and Notice of
13 Case Management Conference and Order represent all the process, pleadings, and orders seen by any
14 defendant in the State Court Action, and no hearing or other proceedings have taken place in the State
15 Court Action to RB Pharma’s knowledge.

16 **GROUND FOR REMOVAL**

17 7. This Notice of Removal is being timely filed within 30 days of first receipt of a copy
18 of the Complaint by RB Pharma pursuant to 28 U.S.C. § 1446(b). Removal is proper based on
19 federal question jurisdiction under 28 U.S.C. § 1331, and based on diversity jurisdiction under
20 28 U.S.C. § 1332.

21 **Federal Question Jurisdiction (28 U.S.C. § 1331)**

22 8. The United States District Court for the Northern District of California is the federal
23 court for Alameda County, California. 28 U.S.C. § 84(a).

24 9. In her Complaint, Plaintiff alleges that RB Pharma retaliated against her in violation of
25 the Family Medical Leave Act (“FMLA”), 29 U.S.C. § 2615, for exercising her alleged FMLA rights
26 and allegedly opposing practices she believed are forbidden by the FMLA.. See Exhibit A, Third and
27 Fourth Causes of Action, ¶¶ 44-53.

10. Therefore, this is a civil action in which plaintiff asserts a claim under a federal statute of which the United States District Courts have original jurisdiction, pursuant to 28 U.S.C. §1331. Furthermore, this Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. §1367. Accordingly, this entire action may be removed to this Court pursuant to 28 U.S.C. §1441.

Diversity Jurisdiction (28 U.S.C. § 1332)

11. Plaintiff is a resident of the State of California. See Exhibit A, ¶ 1.

12. Pursuant to 28 U.S.C. § 1332, a corporation shall be deemed to be a citizen of the State in which it has been incorporated and of the State where it has its principal place of business. 28 U.S.C. § 1332 (c)(1).

13. RB Pharma is a corporation incorporated in the State of Delaware. See Declaration of Julie Riles ¶ 2 & Exhibit A thereto (RB Pharma's Certificate of Incorporation in the State of Delaware).

14. RB Pharma's principal place of business is in Richmond, Virginia. See Declaration of Julie Riles ¶ 3.

15. Accordingly, RB Pharma is deemed a citizen of the states of Delaware and Virginia.

16. Although the Complaint does not set forth the specific amount that Plaintiff seeks to recover in this action, Plaintiff states in her Complaint that she seeks economic damages, damages for pain and suffering and emotional distress, injunctive relief, statutory attorneys' fees, statutory liquidated damages, unpaid wages, and exemplary damages. See Exhibit A, pgs. 14-16. Based on the characterization of the alleged damages, the amount of the damages sought for the claims asserted in the Complaint exceeds the sum or value of \$75,000, exclusive of interest and costs.

17. Accordingly, this entire action may be removed to this Court pursuant to 28 U.S.C. §§ 1332(a) and 1441 because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, is between citizens of different States and RB Pharma is not a citizen of the State of California, the State in which this action was brought.

18. In filing this Notice of Removal, RB Pharma does not waive any defenses that may be available to it.

K&L GATES LLP

By:

Linda L. Usoz

4

NOTICE OF REMOVAL

EXHIBIT A

1 Aaron P. Minnis, Esq. (SBN202935)
2 Sonya L. Smallets, Esq. (SBN226190)
3 Sean D. McHenry, Esq. (SBN284175)
4 MINNIS & SMALLETS LLP
5 315 Noe Street
6 San Francisco, California 94114
7 T: (415) 551-0885
8 F: (415) 683-7157
9 E: aaron@minnisandsmallets.com

10 Attorneys for Plaintiff
11 JANELLE CRONK

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF ALAMEDA—UNLIMITED JURISDICTION

14 JANELLE CRONK,

15 Plaintiff,

16 vs.

17 RECKITT BENCKISER
18 PHARMACEUTICALS, INC.; & DOES
19 1 THROUGH 10, INCLUSIVE,

20 Defendants.

Case No.: **RG13683734**

COMPLAINT FOR DAMAGES

- (1) Retaliation for Exercising CFRA Rights
- (2) Retaliation for Opposing CFRA Violation
- (3) Retaliation for Exercising FMLA Rights
- (4) Retaliation for Opposing FMLA Violation
- (5) Discrimination in Violation of FEHA/PDLL
- (6) Retaliation in Violation of FEHA/PDLL
- (7) Constructive Termination in Violation of Public Policy
- (8) Nonpayment of Wages
- (9) Failure to Prevent Discrimination & Retaliation in Violation of FEHA

Jury Trial Demanded

BY FAX

21 COMES NOW Plaintiff JANELLE CRONK for causes of action, and
22 alleges as follows:
23
24
25
26

**ENDORSED
FILED
ALAMEDA COUNTY**
JUN 14 2013
CLERK OF THE SUPERIOR COURT
By Barbara LaMotte Deputy

I. ALLEGATIONS

1
2 1. Plaintiff JANELLE CRONK at all relevant times was an employee
3 of the defendant and resides in Contra Costa County.

4 2. Defendant RECKITT BENCKISER PHARMACEUTICALS, INC.
5 ("Reckitt" or "the company"), on information and belief, is a pharmaceutical
6 company and subsidiary of Reckitt Benckiser PLC, a health, hygiene and
7 home products company with operations in 60 countries and brands such as
8 Air Wick, Calgon, Woolite, Spray N Wash, Clearasil, Scholl and Lysol. On
9 information and belief, Reckitt has several hundred employees working in
10 the United States, including in California, where plaintiff worked in Alameda
11 County. At all relevant times, defendant was plaintiff's employer.

12 3. The true names and capacities, whether individual, corporate or
13 otherwise, of DOES 1 through 10 are at this time unknown to plaintiff, who
14 therefore sues said defendants by such fictitious names. Plaintiff will ask
15 leave to amend this complaint to reflect their true names and capacities
16 when the same have been ascertained. Plaintiff is informed and believes,
17 and thereon alleges, that each of said defendants is responsible, jointly and
18 severally, for the events and injuries described herein and caused damages
19 thereby as alleged herein.

20 4. Plaintiff is informed and believes, and thereon alleges, that at all
21 times mentioned herein each and every co-defendant was and is the
22 predecessor-in-interest, successor-in-interest, agent, counselor, employee,
23 servant, partner, franchisee and/or joint venturer of each of other co-
24 defendant, and in doing the actions hereinafter mentioned, was and/or is
25 acting within the scope of its authority within such agency, employment,
26 counseling, service, partnership, franchise and/or joint venture or single
27 enterprise, and with the permission and consent of each co-defendant.
28 Plaintiff alleges that each of said defendants is responsible, jointly and

1 severally, for the events and injuries described herein and caused damages
2 thereby to plaintiff as alleged herein.

3 5. In August 2006, Reckitt hired Cronk to work as a Clinical
4 Liaison. Prior to joining Reckitt, Cronk worked as a Pharmaceuticals Sales
5 Representative at Innovex, where she earned a sales achievement award;
6 at Alcon Laboratories, where she successfully increased market share by
7 10% in her territory; and at Ross Pediatrics, where she was acknowledged
8 for excellence in her overall performance.

9 6. At Reckitt, plaintiff was responsible for marketing Suboxone,
10 one of the top-200 drugs by total U.S. sales in 2010 and 2011. Suboxone is
11 used for the long-term treatment of opioid dependence and can be
12 prescribed only by certified physicians to treat opiate-addicted patients.

13 7. At Reckitt, Cronk covered a territory which geographically
14 encompassed from Los Altos to Richmond, California. Her daily drive ranged
15 between 75-180 miles. She was expected to visit at least seven doctors
16 daily, plus make three pharmacy calls.

17 8. At all times, Cronk's performance met or exceeded
18 expectations. In 2008, according to Cronk's annual performance evaluation,
19 she was rated "strong" or "very strong" in every core value. She earned the
20 same ratings in 2009, when her manager noted, "Janelle is very committed
21 to her providers, the patients in her territory and to continuing to provide
22 Quality Patient Care to those in need."

23 9. In 2010, Cronk continued her "strong" performance, as
24 acknowledged by her manager, who wrote, "Janelle is a very enthusiastic
25 member of the Nor Cal Team. She is committed to Territory and District and
26 has a strong sense of entrepreneurialship when it comes to managing her
27 territory. She sees it[,] [o]wns it and makes it happen with company
28 initiatives."

1 10. In June 2011, Cronk learned she was pregnant with her first
2 child. She informed her direct manager, Kelly Corbett, and Corbett's
3 manager, Pat Lewis. She also emailed Eve Campan, Human Resources
4 manager in Virginia, to inquire about benefits. Campan suggested that
5 Cronk discuss her maternity leave with Corbett.

6 11. Early in the pregnancy, Cronk experienced medical issues that
7 were serious enough to report to her obstetrician. Cronk experienced
8 recurring symptoms that were affecting her ability to work. Her obstetrician
9 instructed her not to drive or sit for extended periods, and not to take plane
10 lasting more than two hours. Cronk notified the company of these
11 restrictions.

12 12. By September 27, 2011, Cronk's health issues had worsened,
13 prompting Cronk's doctor to advise a two-week leave of absence. Cronk
14 immediately notified her manager and, in compliance with HR's directive,
15 began working with Reckitt's third party benefits administrator, Aetna.
16 Cronk's leave ultimately was extended to the birth of her daughter. At all
17 times, Cronk was diligent in notifying the company of her status and
18 completing the necessary paperwork during each phase of her leave of
19 absence.

20 13. On May 21, 2012, Cronk reported back to work following the
21 birth of her daughter. Pat Lewis had recently left the company and Corbett,
22 who was Cronk's direct manager, had given notice of her intent to resign.
23 Shortly thereafter, Corbett informed Cronk that she was being placed on a
24 PIP because the company supposedly determined that Cronk's performance
25 was not meeting expectations while she was on protected leave. Corbett
26 indicated that Lewis had directed the PIP with Campan's authorization.
27 However, Corbett indicated that she did not agree with this action and had
28 declined to be a part of it. According to Corbett, a newly hired second level

1 manager, Mark Charles, whom Cronk had never met, would be traveling to
2 California in the next few weeks to present the PIP to Cronk.

3 14. On June 18, 2012, Charles met with Cronk to review the PIP.
4 The PIP stated, in part, that, "This is to inform you that your performance in
5 your position as Clinical Liaison is not meeting expectations. To date there
6 continue to be critical areas of your sales performance that are not meeting
7 the expected standards. Sales performance, specifically, Suboxone Film
8 market share penetration and Monotherapy penetration are below
9 expectations." Notably, the date of the report used to establish the Oakland
10 Territory Suboxone Film market share penetration for which Cronk was
11 supposedly being evaluated was May 18, 2012—before Cronk returned to
12 work from protected leave.

13 15. The PIP also stated, "You are required to increase Suboxone
14 Film Market Share penetration to a minimum of Pac West Area performance
15 [46.13%] by September 15, 2012." In other words, Cronk was expected to
16 achieve nearly 20% growth in three months; otherwise, "Failure to make
17 immediate and sustained improvements in performance as outlined above
18 may result in further disciplinary action up to and including termination."

19 16. At her meeting with Charles, Cronk questioned the PIP's
20 legitimacy, given that she had just returned from an extended protected
21 leave of absence. She pointed out that she had been on protected leave for
22 the past seven months, during which time her region had not been attended
23 to, and that it was unfair for the company to expect her to grow—by 20% in
24 just three months—a region that had been dormant. Cronk reminded
25 Charles that about two months before her leave, her region was expanded
26 to include part of a territory of a departing employee. That area historically
27 underperformed, which distorted Cronk's numbers. Cronk had had little
28 time before her leave of absence to cultivate the new relationships

1 necessary to improve the numbers in the expanded territory, yet this was
2 an area Charles pounced upon after she returned from leave.

3 17. Charles dismissed her concerns and claimed that "everyone"
4 who had received an "adequate" performance rating in December 2011 had
5 been put on a PIP. Cronk explained that in December 2011, she was already
6 more than three months into her leave of absence, and that she had never
7 even received a copy of the 2011 evaluation. Charles said that the PIP
8 would stand, and referred to another employee who was placed on a PIP as
9 soon as that employee had returned from an approved medical leave to
10 justify his decision. He also told her, "Well, I haven't terminated you, yet."
11 Cronk acknowledged receiving the PIP, but wrote, "I do not agree."

12 18. After the meeting, Cronk set to work on meeting the PIP's
13 unrealistic objectives. By July 30, she was acknowledged as a Film volume
14 increase leader.

15 19. In August 2012, Cronk was informed that Jonathan Lewis, who
16 was based in Seattle, would be her new direct manager. She asked Lewis
17 about the PIP, but he claimed he was not involved and that it was being
18 handled by Charles. On September 6, having not heard from Charles, Cronk
19 contacted Lewis again, requesting a status update regarding her complaint
20 about the PIP. Lewis admitted the PIP was unfair, as Cronk had just
21 returned from maternity leave, but indicated it could be extended for three
22 months. He also questioned whether she was committed to her territory,
23 which no manager had done prior to her taking maternity leave.

24 20. Cronk requested time to meet with Lewis and Charles because
25 she believed the PIP was discriminatory and that it should not have been
26 issued in the first place. She wrote on September 12 that, "I think some of
27 the management has treated me differently ever since they learned that I
28 was attempting to get pregnant and certainly after I returned from

1 pregnancy leave. From my point of view I think the PIP should be closed
2 and removed from my record. I do not agree with it in the first place, and
3 frankly think that I was placed on a PIP to punish me for taking pregnancy
4 leave..."

5 21. On September 14, Cronk talked with Charles and Lewis. They
6 addressed none of Cronk's concerns, other than to state that HR was aware
7 and involved in the situation. Charles claimed it was "common practice" to
8 place employees with an "adequate" rating on a PIP. However, by this time,
9 Cronk still had not been provided with a copy of her 2011 evaluation by
10 anyone, including Charles. Regardless, Charles said that the PIP would be
11 extended for two alleged reasons: first, "based on updated analytical
12 information" showing her target had been set too high; and second,
13 because of "leadership changes." He asked if she would accept the
14 extension. Cronk requested time to consider, and Charles immediately
15 asked if she wanted to resign. Cronk repeated that she needed time to
16 consider.

17 22. After this meeting, Reckitt provided Cronk with the 2011
18 performance evaluation, for the period covering January 1 to December 31,
19 2011. The rating is "adequate", which is negative. Some or all of the
20 evaluation was prepared while Cronk was on maternity leave. Her former
21 manager Corbett's comments are positive, and expressly acknowledge that
22 "Janelle is currently on LOA"; however, Pat Lewis' comments were decidedly
23 negative. Lewis wrote, "Janelle's performance with the film is disappointing,
24 her market share remains in the low 24% share as of 10/7 weekly
25 prescriber", and "Janelle will need to quickly address the market share
26 shortfalls of her territory." Lewis' criticism is based on data taken while
27 Cronk was on a protected leave of absence.

28

1 23. The evaluation makes no mention of Cronk's ongoing medical
2 issues *prior* to the disability leave, such as Cronk's inability to drive or sit
3 for long periods, even though her manager and Lewis were aware that
4 these issues affected Cronk's ability to work.

5 24. Moreover, the evaluation is based on inaccurate information in
6 that there were known data discrepancies associated with the company's
7 transition to using data provided by Wolters Kluwer, a company that tracks
8 and reports sales data. The Kluwer data did not including sales information
9 for several pharmacies in Cronk's territory. Corbett had notified Lewis and
10 HR of this situation prior to Cronk going on maternity leave in response to
11 criticisms Lewis had raised about Cronk's performance. The company
12 accepted this explanation and Cronk was not subjected to any disciplinary
13 action based on her sales numbers. However, after Cronk returned from
14 protected leave, the company relied on data that was known to be false to
15 place Cronk on the PIP, even though these issues remained unresolved and
16 Cronk's territory had been dormant for months.

17 25. On September 16, Cronk again complained to Charles that her
18 concerns about the first PIP had gone unacknowledged and unanswered for
19 three months before the company issued the second PIP. Moreover, like the
20 first PIP, the second PIP had the same inaccuracies as the evaluation. Cronk
21 complained to Charles that extending the PIP did not alleviate her concern
22 that the initial PIP was retaliatory and discriminatory, and should not have
23 been issued in the first place.

24 26. Cronk's health worsened as a result of this situation and HR's
25 failure to take action to resolve it. Cronk began suffering from panic
26 attacks, insomnia, weight loss, rashes, and painful psoriatic skin outbreaks
27 for which she had to take medication. She could not breast feed and felt
28 depressed to the point where her family and doctor became deeply

1 concerned about her health and well-being. She sought therapy and was
2 prescribed medication. The effect on her health was such that her health
3 care provider advised her to leave her job. Cronk thought of requesting a
4 leave of absence instead, but she had been advised by Aetna (the
5 company's benefits provider) that she had supposedly "exhausted" her
6 leave.

7 27. On September 16, Cronk notified HR that she was forced to
8 resign. She explained, "Being put on a PIP is a traumatic event, given that I
9 have been in very good standing with the company for 6 years. Having my
10 job security threatened, after I went to great lengths to understand and
11 comply with the California Leave Laws to ensure I would have job-
12 protection upon my return was devastating. The anxiety this caused me,
13 especially returning from a pregnancy leave that included a long and
14 complicated period of disability, was painful and overwhelming ... This
15 unjust and unfair situation has had a significant impact on my health and
16 wellbeing and has had a devastating impact on my life and livelihood. Given
17 that the company has made clear that they will not remove the undeserved
18 PIP I see no possible way that I can move forward and succeed."

19 28. Cronk's last day of employment was September 28, 2012.
20 Thereafter HR contacted Cronk to discuss her COBRA rights. HR Director
21 Julie Riles indicated she did not view the situation in the same way as
22 Cronk, referring to the circumstances of her constructive termination.

23 29. Plaintiff timely filed administrative charges with DFEH and
24 obtained her right to sue.

25 30. Defendant's actions were undertaken for improper purposes as
26 alleged above and were willful, oppressive and in conscious disregard of
27 plaintiff's rights, and were designed and intended to cause and did, in fact,
28 cause plaintiff to suffer severe emotional distress, pain and suffering, and

1 substantial economic damage and, therefore, justify the awarding of
2 exemplary and punitive damages.

3 31. The above allegations are incorporated by reference in each and
4 every cause of action stated below.

5 **II. CAUSES OF ACTION**

6 **FIRST CAUSE OF ACTION**

7 **(Retaliation for Exercising CFRA Rights)**

8 32. Plaintiff was eligible for CFRA leave.

9 33. Plaintiff took leave for the birth of her child.

10 34. Defendant threatened plaintiff with termination. It placed
11 plaintiff on an unwarranted and discriminatory performance improvement
12 plan and extended the plan, and defendant gave plaintiff an unwarranted
13 and discriminatory performance evaluation. These and other actions
14 described above were designed to force, and did force, plaintiff to resign.

15 35. Plaintiff's request for and taking of leave was a motivating
16 reason for defendant's adverse actions.

17 36. Plaintiff was harmed.

18 37. Defendant's retaliatory conduct was a substantial factor in
19 causing plaintiff's harm.

20 **SECOND CAUSE OF ACTION**

21 **(Retaliation for Opposing CFRA Violation)**

22 38. Plaintiff was eligible for CFRA leave.

23 39. Following her return from leave, plaintiff opposed practices she
24 reasonably believes are forbidden under the Act.

1 40. Defendant threatened plaintiff with termination. It placed
2 plaintiff on an unwarranted and discriminatory performance improvement
3 plan and extended the plan, and defendant gave plaintiff an unwarranted
4 and discriminatory performance evaluation. These and other actions
5 described above were designed to force, and did force, plaintiff to resign.

6 41. Plaintiff's protected activity was a motivating reason for
7 defendant's adverse actions.

8 42. Plaintiff was harmed.

9 43. Defendant's retaliatory conduct was a substantial factor in
10 causing plaintiff's harm.

11 **THIRD CAUSE OF ACTION**

12 **(Retaliation for Exercising FMLA Rights)**

13 44. Plaintiff was eligible for leave under the FMLA.

14 45. Plaintiff requested and took protected FMLA leave for her own
15 serious medical condition.

16 46. Defendant threatened plaintiff with termination. It placed
17 plaintiff on an unwarranted and discriminatory performance improvement
18 plan and extended the plan, and defendant gave plaintiff an unwarranted
19 and discriminatory performance evaluation. These and other actions
20 described above were designed to force, and did force, plaintiff to resign.

21 47. Plaintiff's request for and taking of FMLA leave was a motivating
22 reason for these adverse actions.

23 48. Plaintiff was harmed.

24 **FOURTH CAUSE OF ACTION**

25 **(Retaliation for Opposing FMLA Violation)**

26 49. Plaintiff was eligible for leave under the FMLA.

27 50. Following her return from leave, plaintiff opposed practices she
28 reasonably believes are forbidden under the Act.

1 51. Defendant threatened plaintiff with termination. It placed
2 plaintiff on an unwarranted and discriminatory performance improvement
3 plan and extended the plan, and defendant gave plaintiff an unwarranted
4 and discriminatory performance evaluation. These and other actions
5 described above were designed to force, and did force, plaintiff to resign.

6 52. Plaintiff's protected activity was a motivating reason for these
7 adverse actions.

8 53. Plaintiff was harmed.

9 **FIFTH CAUSE OF ACTION**

10 **(Pregnancy Disability Discrimination in Violation of Fair Employment**
11 **and Housing Act / Pregnancy Disability Leave Act)**

12 54. Defendant is an employer within the meaning of FEHA and the
13 PDLA.

14 55. Plaintiff was an employee of defendant.

15 56. Plaintiff requested and took leave of absence for a disability
16 related to pregnancy.

17 57. Defendant knew of plaintiff's pregnancy disability leave.

18 58. Defendant threatened plaintiff with termination. It placed
19 plaintiff on an unwarranted and discriminatory performance improvement
20 plan and extended the plan, and defendant gave plaintiff an unwarranted
21 and discriminatory performance evaluation. These and other actions
22 described above were designed to force, and did force, plaintiff to resign.

23 59. Plaintiff's need for, and exercise of her right to take, pregnancy
24 disability leave was the substantial motivating reason in defendant's
25 adverse actions toward plaintiff.

26 60. Defendant's conduct was a substantial factor in causing
27 Plaintiff's harm.

28

SIXTH CAUSE OF ACTION

(Retaliation in Violation of FEHA/PDLL)

61. Defendant is an employer within the meaning of FEHA and the PDLL.

62. Plaintiff was an employee of defendant.

63. Plaintiff opposed discriminatory activity that she reasonably believed to be unlawful under FEHA and the PDLL.

64. Defendant threatened plaintiff with termination. It placed plaintiff on an unwarranted and discriminatory performance improvement plan and extended the plan, and defendant gave plaintiff an unwarranted and discriminatory performance evaluation. These and other actions described above were designed to force, and did force, plaintiff to resign.

65. Plaintiff's opposition to activity she reasonably believed to be discriminatory was the motivating reason for defendant's adverse actions toward plaintiff.

66. Plaintiff was harmed.

SEVENTH CAUSE OF ACTION

(Constructive Termination in Violation of Public Policy)

67. Plaintiff was employed by Defendants.

68. Plaintiff was subjected to working conditions that violated public policy, in that plaintiff was retaliated against for taking protected leave of absence and for complaining about discrimination and retaliation in violation of public policy embodied in FEHA, FMLA, CFRA and PDLL.

69. Defendant intentionally created or knowingly permitted these working conditions.

70. These working conditions were so intolerable that a reasonable person in plaintiff's position would have had no reasonable alternative except to resign.

1 71. Plaintiff resigned because of these working conditions.

2 72. The working conditions were a substantial factor in causing
3 plaintiff's harm.

4 73. Plaintiff was harmed.

5 **EIGHTH CAUSE OF ACTION**

6 **(Nonpayment of Wages – Cal Labor Code §§201, 202, 218)**

7 74. Plaintiff performed work for defendant.

8 75. Defendant owes plaintiff wages under the terms of employment.

9 76. The amount of unpaid wages is approximately \$20,000.

10 **NINTH CAUSE OF ACTION**

11 **(Failure to Prevent Discrimination and Retaliation)**

12 77. Plaintiff was an employee of defendant.

13 78. Plaintiff was subject to discrimination and retaliation because
14 she opposed defendant's unlawful practices and because she exercised her
15 right to take a protected leave of absence.

16 79. Defendant failed to take reasonable steps necessary to prevent
17 the discrimination and retaliation.

18 80. Plaintiff was harmed.

19 81. Defendant's failure to take reasonable steps to prevent the
20 discrimination and retaliation was a substantial factor in causing plaintiff's
21 harm.

22 **III. PRAYER FOR RELIEF**

23 WHEREFORE, plaintiff seeks relief as follows:

24 For the First, Second, Fifth, Sixth & Ninth Causes of Action:

25 Economic damages;

26 Noneconomic damages for pain and suffering and emotional distress;

27 Equitable and injunctive relief regarding defendant's unlawful policy;

28 Statutory attorney's fees;

1 Legal interest;

2 Costs of suit; and

3 Such other relief as the court deems just.

4 For the Third and Fourth Causes of Action:

5 Economic damages;

6 Legal interest;

7 Liquidated damages in an amount equal to the sum of the economic
8 damages and legal interest;

9 Equitable and injunctive relief regarding defendant's unlawful policy;

10 Statutory attorney's fees;

11 Expert witness fees;

12 Costs of suit; and

13 Such other relief as the court deems just.

14 For the Seventh Cause of Action:

15 Economic damages;

16 Non-economic damages for pain, suffering and emotional distress;

17 Exemplary damages;

18 Legal interest;

19 Costs of suit; and

20 Such other relief as the court deems just.

21 For the Eighth Cause of Action:

22 Unpaid wages;

23 Legal interest;

24 Statutory penalties;

25 Statutory attorney's fees;

26 Costs of suit; and

27 Such other relief as the court deems just.
28

1 **DATED:** June 13, 2013

2
3 By: 

4 AARON P. MINNIS, ESQ.

5 Attorney for Plaintiff
6 JANELLE CRONK
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EXHIBIT B

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

**RECKITT BENCKISER PHARMACEUTICALS, INC.; & DOES 1
THROUGH 10, INCLUSIVE,**

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

JANELLE CRONK

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
**ENDORSED
FILED
ALAMEDA COUNTY**

JUN 14 2013

**CLERK OF THE SUPERIOR COURT
By Barbara LaMotte Deputy**

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **(AVISO)** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos suenos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Superior Court of California, County of Alameda
1225 Fallon Street, Oakland, California 94612

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Aaron P. Minnis, Esq., Minnis & Smalleys LLP, 315 Nor St., San Francisco, CA, 94114 p: (415) 551-0885

CASE NUMBER:
(Número de caso):

RG13683734

DATE: **JUN 14 2013**
(Fecha)

Leah T. Wilson

Clerk, by
(Secretario)

Barbara LaMotte

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): **Reckitt Benckiser Pharmaceuticals Inc**

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Aaron P. Minnis, Esq. (202935) MINNIS & SMALLITS LLP 315 Noc Street San Francisco, California 94114 TELEPHONE NO.: (415) 551-0883 FAX NO.: (415) 683-7157 ATTORNEY FOR (Party): Janelle Cronk		CM-010 FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY JUN 14 2013 CLERK OF THE SUPERIOR COURT By: Barbara LaMotte Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland 94612 BRANCH NAME: Rene C. Davidson Courthouse		
CASE NAME: Cronk v. Reckitt Benckiser Pharmaceuticals, Inc.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		
CASE NUMBER: RG13683734 JUDGE: DEPT:		

Items 1-8 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (45) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input checked="" type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (08) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (35) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (38)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxics tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 9
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

BY FAX

 Date: 6/13/2013
 Aaron P. Minnis

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

- NOTICE**
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
 - File this cover sheet in addition to any cover sheet required by local court rule.
 - If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
 - Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

 Form Adopted for Mandatory Use
 Judicial Council of California
 CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

 Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740;
 Cal. Standards of Judicial Administration, art. 5.10
 www.courtinfo.org

EXHIBIT C

Minnis & Smallets LLP
 Attn: Minnis, Aaron P.
 315 Noe Street
 San Francisco, CA 94114

RECEIVED
 JUN 25 2013

BY: _____

Superior Court of California, County of Alameda

Cronk

Plaintiff/Petitioner(s)

No. RG13683734

VS.

**NOTICE OF CASE MANAGEMENT
 CONFERENCE AND ORDER**
 Unlimited Jurisdiction

Reckett Benckiser Pharmaceuticals, Inc.

Defendant/Respondent(s)

(Abbreviated Title)

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD.

Notice is given that a Case Management Conference has been scheduled as follows:

Date: 10/29/2013 Time: 03:00 PM	Department: 22 Location: Administration Building Fourth Floor 1221 Oak Street, Oakland CA 94612 Internet: http://www.alameda.courts.ca.gov	Judge: Robert McGuiness Clerk: Monica Martin Clerk telephone: (510) 267-6938 E-mail: Dept.22@alameda.courts.ca.gov Fax: (510) 267-1574
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ORDERS

1. You must:
 - a. Serve all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (CRC 3.110(b));
 - b. Give notice of this conference to any party not included in this notice and file proof of service;
 - c. Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 3.724 no later than 30 calendar days before the date set for the Case Management Conference;
 - d. File and serve a completed Case Management Statement (use of Judicial Council Form CM-110 is mandatory) at least 15 days before the Case Management Conference (CRC 3.725)*
2. If you do not follow the orders above, you are hereby ordered to show cause why you should not be sanctioned under CRC 2.30. The hearing on the Order to Show Cause re: Sanctions will be at the same time as the Case Management Conference. Sanctions may include monetary sanctions and any other sanction permitted by law, including striking pleadings or dismissing the action.
3. You are further ordered to appear in person† (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.
4. The Direct Calendar Judge will issue orders at the conclusion of the conference that should include:
 - a. Referring to ADR and setting an ADR completion date
 - b. Dismissing or severing claims or parties
 - c. Setting a trial date.

* Case Management Statements may be filed by E-delivery, by emailing them to the following address: EDelivery@alameda.courts.ca.gov. No fee is charged for this service. For further information, go to Direct Calendar Departments at <http://apps.alameda.courts.ca.gov/domainweb>.

† Telephonic appearances at Case Management Conferences may be available by contacting CourtCall, an independent vendor, at least 3 business days prior to the scheduled conference. Parties may make arrangements by calling 1-888-882-6878, or faxing a service request to 1-888-882-2946. This service is subject to charges by the vendor.

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice of Hearing by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 06/19/2013.

By



Superior Court of California, County of Alameda



Notice of Assignment of Judge for All Purposes

Case Number: RG13683734

Case Title: Cronk VS Reckett Benckiser Pharmaceuticals, Inc.

Date of Filing: 06/14/2013

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to Rule 3.734 of the California Rules of Court and Title 3 Chapter 2 of the Local Rules of the Superior Court of California, County of Alameda, this action is hereby assigned by the Presiding Judge for all purposes to:

Judge:	Robert McGuiness
Department:	22
Address:	Administration Building 1221 Oak Street Oakland CA 94612
Phone Number:	(510) 267-6938
Fax Number:	(510) 267-1574
Email Address:	Dept.22@alameda.courts.ca.gov

Under direct calendaring, this case is assigned to a single judge for all purposes including trial.

Please note: In this case, any challenge pursuant to Code of Civil Procedure section 170.6 must be exercised within the time period provided by law. (See Code Civ. Proc. §§ 170.6, subd. (a)(2) and 1013.)

NOTICE OF NONAVAILABILITY OF COURT REPORTERS: Effective June 4, 2012, the court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). Parties may arrange and pay for the attendance of a certified shorthand reporter. In limited jurisdiction cases, parties may request electronic recording.

Amended Local Rule 3.95 states: "Except as otherwise required by law, in general civil case and probate departments, the services of an official court reporter are not normally available. For civil trials, each party must serve and file a statement before the trial date indicating whether the party requests the presence of an official court reporter."

IT IS THE DUTY OF EACH PLAINTIFF AND CROSS COMPLAINANT TO SERVE A COPY OF THIS NOTICE IN ACCORDANCE WITH LOCAL RULES.

General Procedures

Following assignment of a civil case to a specific department, all pleadings must be filed at the court facility where that department is located. The René C. Davidson Courthouse is the filing location for departments situated in the Alameda County Administration Building and the United States Post Office (see Local Rule, rule 1.9(d) effective as of 01/01/2013). All documents, with the exception of the original summons and the original civil complaint, shall have clearly typed on the face page of each document, under the case number, the following:

ASSIGNED FOR ALL PURPOSES TO
JUDGE Robert McGuiness
DEPARTMENT 22

All parties are expected to know and comply with the Local Rules of this Court, which are available on the Court's website at:
<http://www.alameda.courts.ca.gov/courts/rules/index.shtml> and with the California Rules of Court, which are available at www.courtinfo.ca.gov.

Parties must meet and confer to discuss the effective use of mediation or other alternative dispute processes (ADR) prior to the Initial Case Management Conference. The court encourages parties to file a "Stipulation to Attend ADR and Delay Initial Case Management Conference for 90 Days". Plaintiff received that form in the ADR information package at the time the complaint was filed. The court's Web site also contains this form and other ADR information. If the parties do not stipulate to attend ADR, the parties must be prepared to discuss referral to ADR at the Initial Case Management Conference.

(1) Counsel are expected to be familiar with the Statement of Professionalism and Civility, Alameda County Bar Association (www.acbanet.org). (2) Appearances by attorneys who are not counsel of record are not permitted except for good cause shown. Non-emergency scheduling conflicts is not good cause. (3) The court appreciates receiving courtesy copies of motions for summary judgment or adjudication, but otherwise, unless directed, counsel should refrain from lodging or emailing courtesy copies. (4) All references to "counsel" in this order apply equally to self-represented parties, who should know that there is a Self-Help Center at Rene C. Davidson Courthouse, 2nd Floor, 1225 Fallon Street, Oakland. (5) Email requests for motion dates preferred. Remember: Email is NOT a substitute for filing of pleadings/documents. (6) The court does provide an expedited informal discovery resolution procedure which MUST be followed before filing a discovery motion. Contact the clerk for details.

Schedule for Department 22

The following scheduling information is subject to change at any time, without notice. Please contact the department at the phone number or email address noted above if you have questions. Contacts with Dept. 22 should be by e-mail with copies to all counsel after conferring about proposed dates.

- Trials generally are held: Mondays through Thursdays, 8:30 a.m. to 1:30 p.m. with two breaks and Fridays, 8:30 a.m. to noon with one break. A pretrial conference is generally scheduled 3 weeks before trial at 8:30 a.m. or 2:00 p.m. on a Friday. Personal appearance required.
- Case Management Conferences are held: Mondays through Thursdays at 3:00 p.m.
- Law and Motion matters are heard: Tuesdays and Thursdays at 3:00 p.m. (maximum 5 each). Email Dept. 22 to obtain a reservation. Limited hearings are

available for summary judgments, preliminary injunctions and other time intensive motions.

- Settlement Conferences are heard: Court resources are limited. Counsel encouraged to consider alternative dispute resolution options. Conferences will be specially set when deemed appropriate.
- Ex Parte matters are heard: Applications are considered only on moving papers and any written response. Email Dept. 22 to advise when papers will be filed and give notice to other side and advise same that written opposition must be filed in 24 hours.

Law and Motion Procedures

To obtain a hearing date for a Law and Motion or ex parte matter, parties must contact the department as follows:

- Motion Reservations
Email: Dept.22@alameda.courts.ca.gov
- Ex Parte Matters
Email: Dept.22@alameda.courts.ca.gov

Tentative Rulings

The court may issue tentative rulings in accordance with the Local Rules. Tentative rulings will become the Court's order unless contested in accordance with the Local Rules. Tentative rulings will be available at:

- Website: www.alameda.courts.ca.gov/domainweb, Calendar Information for Dept. 22
- Phone: 1-866-223-2244

Dated: 06/18/2013


Facsimile

Presiding Judge,
Superior Court of California, County of Alameda

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown on the attached Notice of Initial Case Management Conference and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 06/19/2013

By

 Digital

Deputy Clerk

Deputy Clerk

CERTIFICATE OF SERVICE

I, SEAN MCHENRY, hereby declare:

I am a citizen of the United States, over the age of eighteen years and not a party to the instant action. My office address is 315 Noe Street, San Francisco, California 94114.

On June 24, 2013, I caused to be served the following documents:

- NOTICE OF CASE MANAGEMENT CONFERENCE AND ORDER; NOTICE OF ASSIGNMENT OF JUDGE FOR ALL PURPOSES

I enclosed a true copy of said documents in an envelope(s) addressed as follows:

Vincent N. Avallone, Esq.
K&L Gates
One Newark Center, Tenth Floor
Newark, New Jersey 07102-5285

Linda L. Usoz, Esq.
K&L Gates
630 Hansen Way
Palo Alto, California 94304

XX BY MAIL depositing true and correct copies in sealed envelope(s) in the United States Mail in accordance with ordinary business practices during ordinary business hours.

BY PERSONAL SERVICE in accordance with ordinary business practices during ordinary business hours.

BY FAX at the number(s) listed above.

BY FEDERAL EXPRESS overnight delivery.

BY E-MAIL

I declare under penalty of perjury under the State of California and the laws of the United States of America that the foregoing is true and correct. Executed on June 24, 2013, at San Francisco, California.

SEAN MCHENRY